



**COLORADO**  
Department of Public  
Health & Environment

Dedicated to protecting and improving the health and environment of the people of Colorado

September 13, 2016

Ouray Silver Mines Inc.  
c/o Corporation Service Company  
1560 Broadway, Suite 2090  
Denver, CO 80202

Certified Mail Number: 7005 1820 0000 3207 8395

**RE: Service of Notice of Violation/Cease and Desist Order, Number: IO-160913-1**

Dear Registered Agent:

Ouray Silver Mines Inc. is hereby served with the enclosed Notice of Violation / Cease and Desist Order (the "NOV/CDO"). The NOV/CDO is issued by the Colorado Department of Public Health and Environment's Water Quality Control Division (the "Division") pursuant to the authority given to the Division by §§25-8-602 and 25-8-605, C.R.S., of the *Colorado Water Quality Control Act*, (the "Act"). The Division bases the NOV/CDO upon findings that Ouray Silver Mines Inc. has violated the Act and/or permit or control regulations promulgated pursuant to the Act, as described in the enclosed NOV/CDO.

Pursuant to §25-8-603, C.R.S., Ouray Silver Mines Inc. is required, within thirty (30) calendar days of receipt of this NOV/CDO, to submit to the Division an answer admitting or denying each paragraph of the Findings of Fact and responding to the Notice of Violation.

This action could result in the imposition of civil penalties. The Division is authorized pursuant to §25-8-608, C.R.S., to impose a penalty of \$10,000 per day for each day during which such violation occurs.

Please be advised that the Division is continuing its investigation into this matter and the Division may identify supplementary violations that warrant amendments to this NOV/CDO or the issuance of additional enforcement actions.



Should you or representatives of Ouray Silver Mines Inc. desire to discuss this matter informally with the Division, or if you have any questions regarding the NOV/CDO, please do not hesitate to contact me by phone at (303) 692-2312 or by electronic mail at [eric.mink@state.co.us](mailto:eric.mink@state.co.us).

Sincerely,



Eric T. Mink, Enforcement Specialist  
Clean Water Enforcement Unit  
WATER QUALITY CONTROL DIVISION

*Enclosure(s)*

cc: Enforcement File

ec: Michael Boeglin, EPA Region VIII  
Elisabeth Lawaczek, Ouray County Public Health Department  
Aimee Konowal, Watershed Section, CDPHE  
Corrina Quintana, Grants and Loans Unit, CDPHE  
Amy Zimmerman, Engineering Section, CDPHE  
Heather Drissel, Field Services Section, CDPHE  
Erin Scott, Permits Section, CDPHE  
Kelly Morgan, Enforcement Unit, CDPHE  
Tania Watson, Data Management, CDPHE



# COLORADO

## Department of Public Health & Environment

### WATER QUALITY CONTROL DIVISION

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NOTICE OF VIOLATION / CEASE AND DESIST ORDER

NUMBER: IO-160913-1

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IN THE MATTER OF:      OURAY SILVER MINES INC.  
F/K/A FORTUNE REVENUE SILVER MINES, INC.  
CDPS PERMIT NO. CO0000003  
OURAY COUNTY, COLORADO

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Pursuant to the authority vested in the Colorado Department of Public Health and Environment's (the "Department") Division of Administration by §§25-1-109 and 25-8-302, C.R.S., which authority is implemented through the Department's Water Quality Control Division (the "Division"), and pursuant to §§25-8-602 and 25-8-605 C.R.S., the Division hereby makes the following Findings of Fact and issues the following Notice of Violation / Cease and Desist Order.

#### FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. At all times relevant to the violations cited herein, Ouray Silver Mines Inc. ("Ouray Silver Mines"), formerly known as Fortune Revenue Silver Mines, Inc., was a Colorado corporation in good standing and registered to conduct business in the State of Colorado.
2. Ouray Silver Mines is a "person" as defined under the Water Quality Control Act, §25-8-103(13), C.R.S. and its implementing permit regulation, 5 CCR 1002-61, §61.2(73).
3. Ouray Silver Mines owns and/or operates the Ouray Silver Mine (aka Revenue Mine), located at approximately 37.97361°N, 107.75°W, near the City of Ouray, Ouray County, Colorado (the "Facility").
4. The Facility consists of an underground metal mine and underground concentrating mill. Mine water and surface runoff are routed to sedimentation ponds for treatment and discharge.
5. The Facility is the subject of the Colorado Discharge Permit System, Permit No. CO0000003 (the "Permit"). The Permit was first issued to Star Mines Operations, LLC and became effective on September 1, 2013. The Division received a transfer request from Star Mines Operations, LLC and Fortune Revenue Silver Mines, Inc. on September 25, 2014, and effective October 28, 2014, the Permit was transferred to Fortune Revenue Silver Mines, Inc. On August 6, 2015, the Division received a modification request from Fortune Revenue Silver Mines, Inc. that included a request to change the name of the company to Ouray Silver Mines. The Division issued the modification to



Ouray Silver Mines and the modification became effective January 1, 2016. The Permit is set to expire on August 31, 2018.

6. The Permit authorizes Ouray Silver Mines to discharge treated wastewater from the Facility through Outfall 001A, located after the lined retention pond, into Sneffels Creek. Outfall 001A is the only outfall permitted to Ouray Silver Mines.
7. Pursuant to 5 CCR 1002-61, §61.8, Ouray Silver Mines must comply with all the terms and conditions of the Permit, and violations of such terms and conditions as specified in the Permit may be subject to civil and criminal liability pursuant to §§25-8-601 through 25-8-612, C.R.S.

#### Discharging Without a Permit

8. Pursuant to §25-8-501(1), C.R.S., and 5 CCR 1002-61, §61.3(1)(a), no person shall discharge any pollutant into any state water from a point source without first having obtained a permit from the Division for such discharge, and no person shall discharge into a ditch or man-made conveyance for the purpose of evading the requirement to obtain a permit under this article.
9. On October 24, 2014, the Department received notification from the Facility that sediment laden mine water was discharging to Sneffels Creek from the Revenue Mine. Upon investigation, it was discovered that in the early morning hours of October 24, 2014, during raise bore drilling a zone of high water flow was penetrated, causing water to flow from the raise bore and into the Virginus mine workings, before running through a ditch in the main Revenue Tunnel and exiting the mine portal, at which point the water entered two (2) eight (8) inch pipes that discharged the mine water directly into Sneffels Creek. The mine water flow into Sneffels Creek was estimated as 400 gallons per minute and lasted from approximately 2:00 AM until 8:00 PM on October 24, 2014.
10. The mine water discharged from the Revenue Mine into Sneffels Creek contained, among others, arsenic, iron, lead, manganese, selenium, silver, and total suspended solids ("TSS").
11. Arsenic, iron, lead, manganese, selenium, silver, and TSS are "pollutants" as defined by §25-8-103(15), C.R.S. and its implementing permit regulation, 5 CCR 1002-61, §61.2 (76).
12. Sneffels Creek is "state waters" as defined by §25-8-103(19), C.R.S. and its implementing permit regulation, 5 CCR 1002-61, §61.2 (102).
13. The discharge pipes exiting the Revenue Mine Portal are each a "point source" as defined by §25-8-103(14), C.R.S. and its implementing permit regulation, 5 CCR 1002-61, §61.2 (75).
14. Pursuant to Part I.A.1. of the Permit, any discharge to state waters from a point source other than the specifically authorized Outfall 001A is prohibited.
15. Ouray Silver Mines does not have any other permits authorizing the discharge of pollutants from the Facility and into Sneffels Creek.
16. Ouray Silver Mines' discharge of arsenic, iron, lead, manganese, selenium, silver, and TSS into Sneffels Creek constitutes a "discharge of pollutants" as defined by §25-8-103(3), C.R.S.



17. Ouray Silver Mines' discharge of arsenic, iron, lead, manganese, selenium, silver, and TSS from the Revenue Mine into Sneffels Creek constitutes an unauthorized discharge of pollutants from a point source into state waters in violation of §25-8-501(1), C.R.S., 5 CCR 1002-61, §61.3(1)(a), and Part I.A.1. of the Permit.

**Failure to Comply with Permit Effluent Limitations**

18. Pursuant to Part I.A.2. of the Permit, Ouray Silver Mines' effluent at Outfall 001A shall not exceed, among others not subject to this action, the effluent discharge limitations specified in the table below:

Ouray Silver Mines DISCHARGE LIMITATIONS FOR OUTFALL 001A					
Parameter	Limitation			Sampling	
	30-day Avg.	7-Day Avg	Daily Max	Frequency	Type
Total Suspended Solids ("TSS"), mg/l	20	30		2 days/month	Grab
Potentially Dissolved Cadmium, µg/l * until 12/31/15 ** starting 1/1/16	0.41* 0.44**		1.6* 2.1**	2 days/month	Grab
Total Recoverable Iron, µg/l * until 12/31/15 ** starting 1/1/16	1,000* 1,204**		NA	2 days/month	Grab
Potentially Dissolved Lead, µg/l * until 12/31/15 ** starting 1/1/16	2.4* 2.6**		62* 91**	2 days/month	Grab
Potentially Dissolved Manganese, µg/l * until 12/31/15	1,627*		2,945*	2 days/month	Grab
Potentially Dissolved Silver, µg/l	0.08		Report	2 days/month	Grab
Potentially Dissolved Zinc, µg/l * until 12/31/15 ** starting 1/1/16	117* 126**		154* 166**	2 days/month	Grab
Static Renewal 7 Day Chronic <i>Ceriodaphnia dubia</i>			NOEC or IC25 ≥ IWC (89%)	Quarterly	3 Grabs / test

19. Pursuant to Part I.A.2. of the Permit, Ouray Silver Mines is required to monitor the defined parameters at specified frequencies to provide an indication of compliance or non-compliance with the limitations of the Permit.
20. Pursuant to Part I.D.1. of the Permit, Ouray Silver Mines is required to summarize and report the analytical results of its effluent monitoring to the Division via monthly discharge monitoring reports ("DMRs"). Each DMR is to include a certification by Ouray Silver Mines that the information provided therein is true, accurate and complete to the knowledge of Ouray Silver Mines.

21. Ouray Silver Mines' DMRs include, among other information and data, the following pollutant concentration summary data which exceeded the effluent limitations outlined in Part I.A.2. of the Permit:

Ouray Silver Mine's EFFLUENT SELF-MONITORING DATA			
DISCHARGE MONITORING REPORTING PERIOD	SAMPLE MEASUREMENTS FOR OUTFALL 001A		
<b>TSS, µg/l</b>	<b>30-DAY AVG. LIMIT=</b> <b>20</b>	<b>7-DAY AVG. LIMIT=</b> <b>30</b>	<b>DAILY MAXIMUM=</b> <b>NA</b>
5/1/2015 - 5/31/2015	25	31	--
<b>Potentially Dissolved Cadmium, µg/l</b>	<b>30-DAY AVG. LIMIT=</b> <b>0.41</b>	<b>7-DAY AVG. LIMIT=</b> <b>NA</b>	<b>DAILY MAXIMUM=</b> <b>1.6</b>
2/1/2015 - 2/28/2015	1.5	--	--
3/1/2015 - 3/31/2015	2.07	--	2.4
4/1/2015 - 4/30/2015	2.15	--	2.5
5/1/2015 - 5/31/2015	1.8	--	3
7/1/2015 - 7/31/2015	0.6	--	--
8/1/2015 - 8/31/2015	0.7	--	--
9/1/2015 - 9/30/2015	1	--	--
10/1/2015 - 10/31/2015	1.1	--	--
11/1/2015 - 11/30/2015	0.55	--	--
12/1/2015 - 12/31/2015	0.45	--	--
<b>Potentially Dissolved Cadmium, µg/l</b>	<b>30-DAY AVG. LIMIT=</b> <b>0.44</b>	<b>7-DAY AVG. LIMIT=</b> <b>NA</b>	<b>DAILY MAXIMUM=</b> <b>2.1</b>
1/1/2016 - 1/31/2016	0.55	--	--
3/1/2016 - 3/31/2016	0.55	--	--
4/1/2016 - 4/30/2016	0.55	--	--
5/1/2016 - 5/31/2016	0.5	--	--
<b>Total Iron, µg/l</b>	<b>30-DAY AVG. LIMIT=</b> <b>1,000</b>	<b>7-DAY AVG. LIMIT=</b> <b>NA</b>	<b>DAILY MAXIMUM=</b> <b>NA</b>
2/1/2015 - 2/28/2015	1,030	--	--
6/1/2015 - 6/30/2015	1,045	--	--
7/1/2015 - 7/31/2015	1,645	--	--
<b>Potentially Dissolved Lead, µg/l</b>	<b>30-DAY AVG. LIMIT=</b> <b>2.4</b>	<b>7-DAY AVG. LIMIT=</b> <b>NA</b>	<b>DAILY MAXIMUM=</b> <b>62</b>
2/1/2015 - 2/28/2015	211.6	--	211.6
3/1/2015 - 3/31/2015	144.8	--	244.6
4/1/2015 - 4/30/2015	473.3	--	548
5/1/2015 - 5/31/2015	340.8	--	391.6
6/1/2015 - 6/30/2015	167.8	--	170.8
7/1/2015 - 7/31/2015	138.5	--	142.2
8/1/2015 - 8/31/2015	76.2	--	130.5
9/1/2015 - 9/30/2015	7	--	--
10/1/2015 - 10/31/2015	5.6	--	--
11/1/2015 - 11/30/2015	6	--	--
<b>Potentially Dissolved Lead, µg/l</b>	<b>30-DAY AVG. LIMIT=</b> <b>2.6</b>	<b>7-DAY AVG. LIMIT=</b> <b>NA</b>	<b>DAILY MAXIMUM=</b> <b>91</b>
1/1/2016 - 1/31/2016	3.95	--	--
2/1/2016 - 2/28/2016	7.05	--	--
3/1/2016 - 3/31/2016	5.1	--	--
4/1/2016 - 4/30/2016	6.5	--	--
5/1/2016 - 5/31/2016	18.8	--	--



Ouray Silver Mine's EFFLUENT SELF-MONITORING DATA			
Potentially Dissolved Manganese, µg/l	30-DAY AVG. LIMIT= 1,627	7-DAY AVG. LIMIT= NA	DAILY MAXIMUM= 2,945
3/1/2015 - 3/31/2015	2,070	--	--
4/1/2015 - 4/30/2015	2,300	--	2,950
5/1/2015 - 5/31/2015	1,709.50	--	3,000
Potentially Dissolved Silver, µg/l	30-DAY AVG. LIMIT= 0.08	7-DAY AVG. LIMIT= NA	DAILY MAXIMUM= Report
2/1/2015 - 2/28/2015	0.1	--	--
3/1/2015 - 3/31/2015	0.14	--	--
4/1/2015 - 4/30/2015	0.65	--	--
5/1/2015 - 5/31/2015	0.235	--	--
8/1/2015 - 8/31/2015	0.165	--	--
Potentially Dissolved Zinc, µg/l	30-DAY AVG. LIMIT= 117	7-DAY AVG. LIMIT= NA	DAILY MAXIMUM= 154
2/1/2015 - 2/28/2015	373	--	373
3/1/2015 - 3/31/2015	495.7	--	548
4/1/2015 - 4/30/2015	544	--	727
5/1/2015 - 5/31/2015	486	--	828
7/1/2015 - 7/31/2015	186.5	--	259
8/1/2015 - 8/31/2015	192.5	--	205
9/1/2015 - 9/30/2015	223	--	260
10/1/2015 - 10/31/2015	335	--	335
11/1/2015 - 11/30/2015	189	--	315
12/1/2015 - 12/31/2015	328	--	330
Potentially Dissolved Zinc, µg/l	30-DAY AVG. LIMIT= 126	7-DAY AVG. LIMIT= NA	DAILY MAXIMUM= 166
1/1/2016 - 1/31/2016	201	--	376
2/1/2016 - 2/29/2016	194	--	--
3/1/2016 - 3/31/2016	186	--	195
4/1/2016 - 4/30/2016	186.5	--	187
5/1/2016 - 5/31/2016	161	--	183
Static Renewal 7 Day Chronic <i>Ceriodaphnia dubia</i>	30-DAY AVG. LIMIT= NA	7-DAY AVG. LIMIT= NA	DAILY MAXIMUM= NOEC or IC25 > IWC (89%)
1 <sup>st</sup> Quarter 2015 (1/1/2015 - 3/31/2015)	--	--	NOEC = 23 IC25 = 45.9
2 <sup>nd</sup> Quarter 2015 (4/1/2015 - 6/30/2015)	--	--	NOEC = 23 IC25 = 19.1
3 <sup>rd</sup> Quarter 2015 (7/1/2015 - 9/30/2015)	--	--	NOEC = 45 IC25 = 49.6
4 <sup>th</sup> Quarter 2015 (10/1/2015 - 12/31/2015)	--	--	NOEC = 48.7 IC25 = 23

22. TSS, cadmium, iron, lead, manganese, silver, zinc, and whole effluent toxicity testing are "pollutants," or indicators thereof, as defined by §25-8-103, C.R.S. and its implementing permit regulation 5 CCR 1002-61, §61.2(76).
23. The Permit does not authorize the pollutant levels identified above in paragraph 21 above. Division records establish that during the reporting periods identified above, Ouray Silver Mines did not have any other permit authorizing such discharge into State Waters.

24. Ouray Silver Mines' failure to comply with the Permit limitations constitutes violations of Part I.A.2. of the Permit.

**Failure to Properly Monitor and Report**

25. Pursuant to Part I.D.1. of the Permit, Ouray Silver Mines is required to report all monitoring results on a monthly basis using Division approved DMRs. Ouray Silver Mines is required to ensure the DMRs are received by the Division no later than the 28<sup>th</sup> day of the month following the reporting period. The Permit specifies that if no discharge occurs during the monitoring period, "No Discharge" shall be reported on the DMR. Each DMR is to include a certification by Ouray Silver Mines that the information provided therein is true, accurate and complete to the knowledge of Ouray Silver Mines.
26. Division records establish that Ouray Silver Mines failed to submit a DMR to the Division for the reporting period listed below:

Ouray Silver Mines DELINQUENT DMRS	
DISCHARGE MONITORING REPORTING PERIOD	OUTFALLS
3 <sup>rd</sup> Quarter 2015 (7/1/2015 - 9/30/2015)	001Q

27. Division records establish that Ouray Silver Mines failed to submit DMRs to the Division by the 28<sup>th</sup> day of the month following the end of the reporting periods identified below:

Ouray Silver Mines DEFICIENT DMRS		
DISCHARGE MONITORING PERIOD	OUTFALL	DMR RECEIPT DATE
11/1/2014 - 11/30/2014	001A	2/4/2015
9/1/2014 - 12/31/2014 12/1/2014 - 12/31/2014	001Q,001X 001A	2/4/2015
1/1/2015 - 1/31/2015	001A	3/4/2015
4/1/2015 - 6/30/2015 6/1/2015 - 6/30/2015	001Q,001X 001A	8/7/2015
8/1/2015 - 8/31/2015	001A	10/1/2015
7/1/2015 - 9/30/2015 9/1/2015 - 9/30/2015	001X 001A	1/15/2016 11/3/2015
11/1/2015 - 11/30/2015	001A	1/5/2016
1/1/2016 - 3/31/2016 3/1/2016 - 3/31/2016	001Q,001X 001A	5/3/2016
4/1/2016 - 4/30/2016	001A	6/1/2016

28. Ouray Silver Mines' failure to submit complete DMRs to the Division by the 28<sup>th</sup> day of the month following each reporting period, as identified above in paragraphs 26 and 27, constitutes violations of Part I.D.1. of the Permit.



## NOTICE OF VIOLATION

29. Based on the foregoing Findings of Fact and Conclusions of Law, you are hereby notified that the Division has determined Ouray Silver Mines has violated the following sections of the Colorado Water Quality Control Act, its implementing permit regulations, and the Permit.

Section 25-8-501(1), C.R.S., which states in part, “No person shall discharge any pollutant into any state water from a point source without first having obtained a permit from the Division for such discharge...”

5 CCR 1002-61 §61.3(1)(a), which states in part, “No person shall discharge any pollutant into any state water from a point source without first having obtained a permit from the Division for such discharge...”

Part I.A.1. of the Permit which states in part: “Any discharge to the waters of the State from a point source other than specifically authorized by this permit is prohibited.”

Part I.A.1. of the Permit which states in part: “In accordance with the Water Quality Control Commission Regulations for Effluent Limitations, Section 62.4, and the Colorado Discharge Permit System Regulations, Section 61.8(2), 5 C.C.R. 1002-61, the permitted discharge shall not contain effluent parameter concentrations which exceed the limitations...”

Part I.D.1. of the Permit which states in part: “Reporting of the data gathered in compliance with Part I.A.... shall be on a monthly basis. Monitoring results shall be summarized for each calendar month and reported on Division approved discharge monitoring report (DMR) forms (EPA forms 3320-1)... If mailed, one form shall be mailed to the Water Quality Control Division... so that the DMR is received no later than the 28<sup>th</sup> day of the following month... If no discharge occurs during the reporting period, “No Discharge” shall be reported... The DMR forms shall be filled out accurately and completely in accordance with the requirements of this permit and the instructions on the forms.”

## REQUIRED CORRECTIVE ACTION

Based upon the foregoing factual and legal determinations and pursuant to §25-8-602 and §25-8-605, C.R.S., Ouray Silver Mines is hereby ordered to:

30. Cease and desist from all violations of the Colorado Water Quality Control Act, §§25-8-101 through 25-8-803, C.R.S., its implementing regulations promulgated thereto and the Permit.

Furthermore, the Division hereby orders Ouray Silver Mines to comply with the following specific terms and conditions of this Order:

31. Ouray Silver Mines shall immediately initiate measures to ensure complete DMRs are submitted to the Division pursuant to the terms and conditions of the Permit. Within thirty (30) calendar days of receipt of this Order, Ouray Silver Mines shall submit a written plan and certification to the Division outlining Ouray Silver Mines’ actions to ensure that DMRs are submitted to the Division accurately and completely so that they are received by no later than the 28<sup>th</sup> day of the month following the end of a reporting period, with consideration being given to applying for approval for electronic submission of DMRs through the Network Discharge Monitoring Report System (NetDMR).



32. Within thirty (30) calendar days of receipt of this Order, Ouray Silver Mines shall submit the delinquent 3<sup>rd</sup> quarter 2015 (7/1/2015- 9/30/2015) DMR.
33. Within thirty (30) calendar days of receipt of this Order, Ouray Silver Mines shall retain the services of an individual or entity experienced in mine related wastewater treatment and management to perform an evaluation of the Facility and recommend measures to ensure that the Facility reliably and consistently complies with all terms and conditions of the Permit, specifically including the numeric effluent limitations and monitoring requirements of the Permit. The evaluation shall include, but not be limited to:
- a. An evaluation of the personnel requirements and qualifications for the operation and management of the Facility, including an evaluation of each individual's role, duties, and responsibilities in ensuring the proper operation and maintenance of the Facility and Permit compliance and;
  - b. An evaluation of the contributing pollutant sources and pollutant concentrations for all parameters, and an evaluation of whether the Facility's treatment system as a whole is adequate to properly treat all contributing pollutant sources and pollutant concentrations to a level that consistently complies with the effluent limitations outlined in Part I.A.2. of the Permit. This evaluation shall include identification and cost comparison of the techniques or technologies that may be utilized at the Facility to comply with the effluent limitations of the Permit.
34. Within forty five (45) calendar days of receipt of this Order, Ouray Silver Mines shall provide documentation to the Division that it has retained the services of the qualified individual or entity identified in paragraph 33. This documentation shall include at, a minimum, a copy of the individual or entity's qualifications and a copy of the written contract or agreement for such services, including a copy of the scope of services to be provided.
35. Within ninety (90) calendar days of receipt of this Order, Ouray Silver Mines shall submit in writing to the Division a final report on the findings of the evaluation identified and outlined in paragraph 33 above. Along with the findings of the evaluation, the report must identify, for each criterion, specific short-term and long-term measures that will be taken by Ouray Silver Mines to rectify deficiencies identified by the evaluation so that the Facility consistently produces effluent in compliance with the numeric limitations outlined in Part I.A.2. of the Permit. For each short-term and long-term measure identified, Ouray Silver Mines shall also submit a time schedule for completion of each measure. The implementation time schedule submitted must identify completion of all measures by no later than September 30, 2017. The measures and time schedule submitted shall become a condition of this Order, and Ouray Silver Mines shall implement the measures and time schedule as submitted unless notified by the Division, in writing, that alternate measures and/or time schedules are appropriate. If the Division imposes alternate measures and/or time schedules, they shall also become a condition of this Order.
36. Ouray Silver Mines shall submit monthly progress reports to the Division outlining efforts taken to achieve compliance with this Order. The first report shall be submitted to the Division on or before November 30, 2016 and subsequent reports shall be due at the end of every month thereafter. At a minimum, each report shall outline activities completed in the previous month and activities planned for the next month to remain in compliance with this Order. The progress reports shall be required until the issuance of written notice from the Division that the reports are no longer necessary.

37. If Ouray Silver Mines becomes aware of any situation or circumstances that cause Ouray Silver Mines to become unable to comply with any condition or time schedules set forth by this Order, Ouray Silver Mines shall provide written notice to the Division within five (5) calendar days of Ouray Silver Mines becoming aware of such circumstances. Ouray Silver Mines' notice shall describe what, if any, impacts will occur on Ouray Silver Mines' ability to comply with the Colorado Water Quality Control Act and any impacts on the remaining conditions and/or time schedules specified by this Order, and what steps are being taken to mitigate the impacts.
38. All documents submitted under this Order shall use the same titles as stated in this Order, and shall reference both the number of this Order and the number of the paragraph pursuant to which the document is required. Within thirty (30) calendar days of receiving Division comments on submitted documents, Ouray Silver Mines shall revise the submitted document(s) to properly address the Division's comments and resubmit the document(s) for Division review.

### NOTICES AND SUBMITTALS

For all documents, plans, records, reports and replies required to be submitted by this Notice of Violation/Cease and Desist Order, Ouray Silver Mines shall submit an original and an electronic copy to the Division at the following address:

Eric Mink  
Colorado Department of Public Health and Environment  
Water Quality Control Division  
Mail Code: WQCD-CWE-B2  
4300 Cherry Creek Drive South  
Denver, Colorado 80246-1530  
Telephone: (303) 692-2312  
Email: eric.mink@state.co.us

For any person submitting documents, plans, records and reports pursuant to this Notice of Violation / Cease and Desist Order, that person shall make the following certification with each submittal:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

### OBLIGATION TO ANSWER AND REQUEST FOR HEARING

Pursuant to §25-8-603, C.R.S. and 5 CCR 1002, §21.11 you are required to submit to the Division an answer affirming or denying each paragraph of the Findings of Fact and responding to the Notice of Violation. The answer shall be filed no later than thirty (30) calendar days after receipt of this action.

Section 25-8-603, C.R.S. and 5 CCR 1002, §21.11 also provide that the recipient of a Notice of Violation may request the Division to conduct a public hearing to determine the validity of the Notice,



including the Findings of Fact. Such request shall be filed in writing with the Division and include the information specified in 5 CCR 1002, §21.4(B)(2). Absent a request for hearing, the validity of the factual allegations and the Notice of Violation shall be deemed established in any subsequent Department proceeding. The request for hearing, if any, shall be filed no later than thirty (30) calendar days after issuance of this action. The filing of an answer does not constitute a request for hearing.

### **FALSIFICATION AND TAMPERING**

Be advised, in accord with §25-8-610, C.R.S., that any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under the Colorado Water Quality Control Act or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this article is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than ten thousand dollars, or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment.

### **POTENTIAL CIVIL AND CRIMINAL PENALTIES**

You are also advised that any person who violates any provision of the Colorado Water Quality Control Act (the "Act"), §§25-8-101 to 803, C.R.S., or of any permit issued under the Act, or any control regulation promulgated pursuant to the Act, or any final cease and desist order or clean-up order issued by the Division shall be subject to a civil penalty of not more than ten thousand dollars per day for each day during which such violation occurs. Further, any person who recklessly, knowingly, intentionally, or with criminal negligence discharges any pollutant into any state waters commits criminal pollution if such discharge is made without a permit, if a permit is required by the Act for such discharge, or if such discharge is made in violation of any permit issued under the Act or in violation of any Cease and Desist Order or Clean-up Order issued by the Division. By virtue of issuing this Notice of Violation / Cease and Desist Order, the State has not waived its right to bring an action for penalties under §§25-8-608 and 609, C.R.S., and may bring such action in the future.

### **RELEASE OR DISCHARGE NOTIFICATION**

Pursuant to §25-8-601, C.R.S., you are further advised that any person engaged in any operation or activity which results in a spill or discharge of oil or other substance which may cause pollution of the waters of the state, shall notify the Division of the discharge. If said person fails to so notify, said person is guilty of a misdemeanor, and may be fined or imprisoned or both.


### **EFFECT OF ORDER**

Nothing herein contained, particularly those portions requiring certain acts to be performed within a certain time, shall be construed as a permit or license, either to violate any provisions of the public health laws and regulations promulgated thereunder, or to make any discharge into state waters. Nothing herein contained shall be construed to preclude other individuals, cities, towns, counties, or duly constituted political subdivisions of the state from the exercise of their respective rights to suppress nuisances or to preclude any other lawful actions by such entities or the State.

For further clarification of your rights and obligations under this Notice of Violation / Cease and Desist Order you are advised to consult the Colorado Water Quality Control Act, §§25-8-101 to 803, C.R.S., and regulations promulgated thereunder, 5 CCR 1002.

Issued at Denver, Colorado, this 19<sup>th</sup> day of September, 2016.

**FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT**



Nicole Rowan, P.E.  
Clean Water Program Manager  
WATER QUALITY CONTROL DIVISION

